

C O P Y in 115

opinion

June 24, 1958

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Mr. Adolard E. Cote, Commissioner  
Department of Labor  
State House  
Concord, New Hampshire

CONCORD, N.H.

Dear Mr. Cote:

This will acknowledge your letter of May 6, 1958 in which you ask three questions with regard to RSA 281:26 (Supp) relative to workmen's compensation payment for permanent partial disability.

RSA 281:26 (Supp) in addition to providing for compensation payments for a certain number of weeks depending upon the nature of the permanent partial disability, further provides for payment of compensation for an additional number of weeks depending again upon the nature of the permanent partial disability, for a healing period.

The language of this section with regard to payments during the healing period is, in each instance, as follows:

"... plus for actual healing period not in excess of [a certain number of weeks' compensation]" (Emphasis supplied)

You state that it has been the practice of your Department that when an injured employee is able to resume his employment, or is released by the Doctor as able to work, no further payments are allowed for the healing period. You ask our opinion as to whether your practice in that regard is correct.

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We answer in the affirmative. The language of section 26 (Supp) clearly states that payments for a healing period shall be made only during the actual healing period but, in any event, not to exceed a designated number of weeks. See also, Crown Woodworking Co. et al v. Goodwin et al, 100 N.H. 431, 434.

You further state that it has been your practice that payments for permanent partial disability are to begin on the date that the parties arrive at an agreement for such payments even though some period of time may have elapsed between the end of the healing period and the date of such agreement. You have advised me over the telephone that the specific problem involved is whether your practice in this regard is correct or whether the injured employee in such case is entitled to the whole of the compensation in a lump sum, assuming that the time which has elapsed between the date of the injury and the date of the agreement for compensation is at least equal to the total number of weeks' compensation provided for by the act for the specific permanent partial disability involved.

In our opinion your practice is the correct procedure and payments should begin on the date the agreement is reached and continue for the number of weeks designated by the statute for the injury involved. The other alternative would amount to a lump sum settlement and would require your approval before becoming effective.

Your third question is whether in the event the parties did not reach an agreement for compensation for a considerable period of time the employer or the insurance carrier would be required to pay interest on the money which had not been paid prior to reaching the agreement on compensation for permanent partial disability. I assume that you refer to interest from the date of the injury to the date of the agreement but this is immaterial in any event in view of our answer.

It is our opinion that no interest would be payable in such a case. The parties by arriving at an agreement for compensation, in effect, spell out the terms for

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their agreement in full. If, therefore, the agreement is silent as to interest then nothing is to be paid.

Very truly yours,

John J. Zimmerman  
Assistant Attorney General

JJZ:sw